

ZB# 99-54

Peter Malazuk

73-3-8

Prelim.

Dec. 13, 1999.

Public Hearing:

Jan. 10, 2000

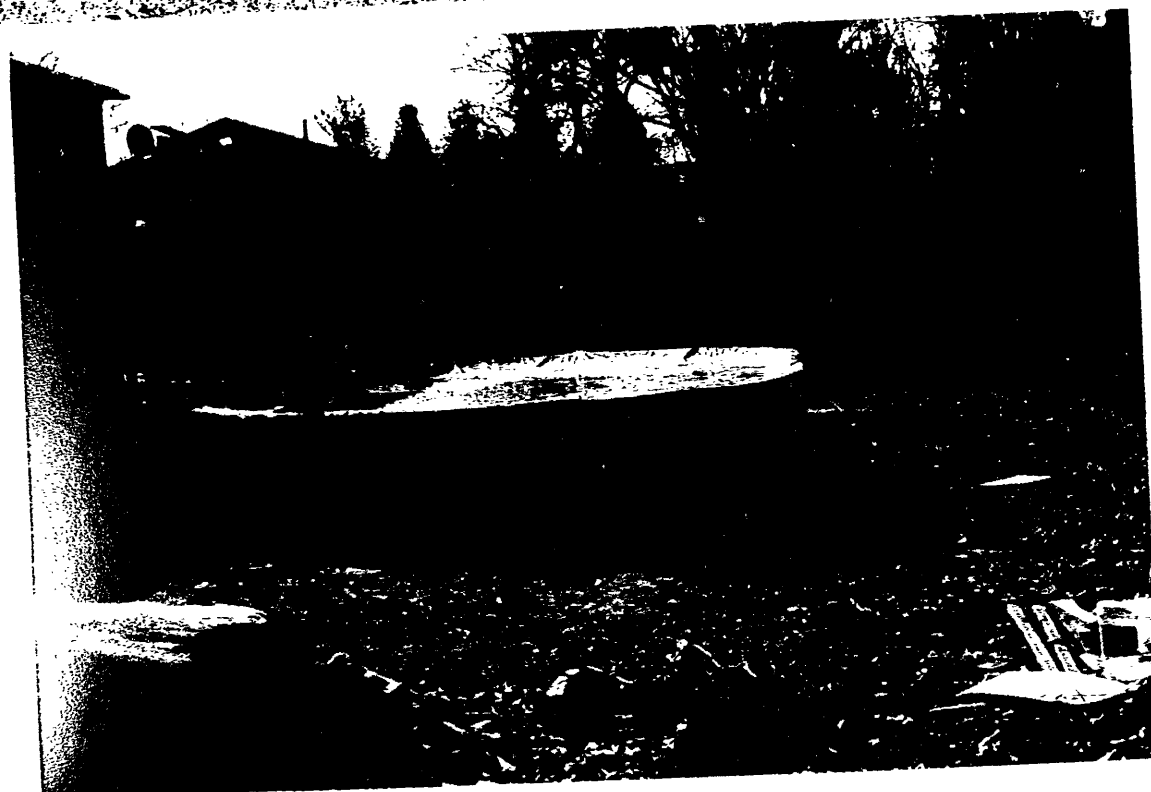
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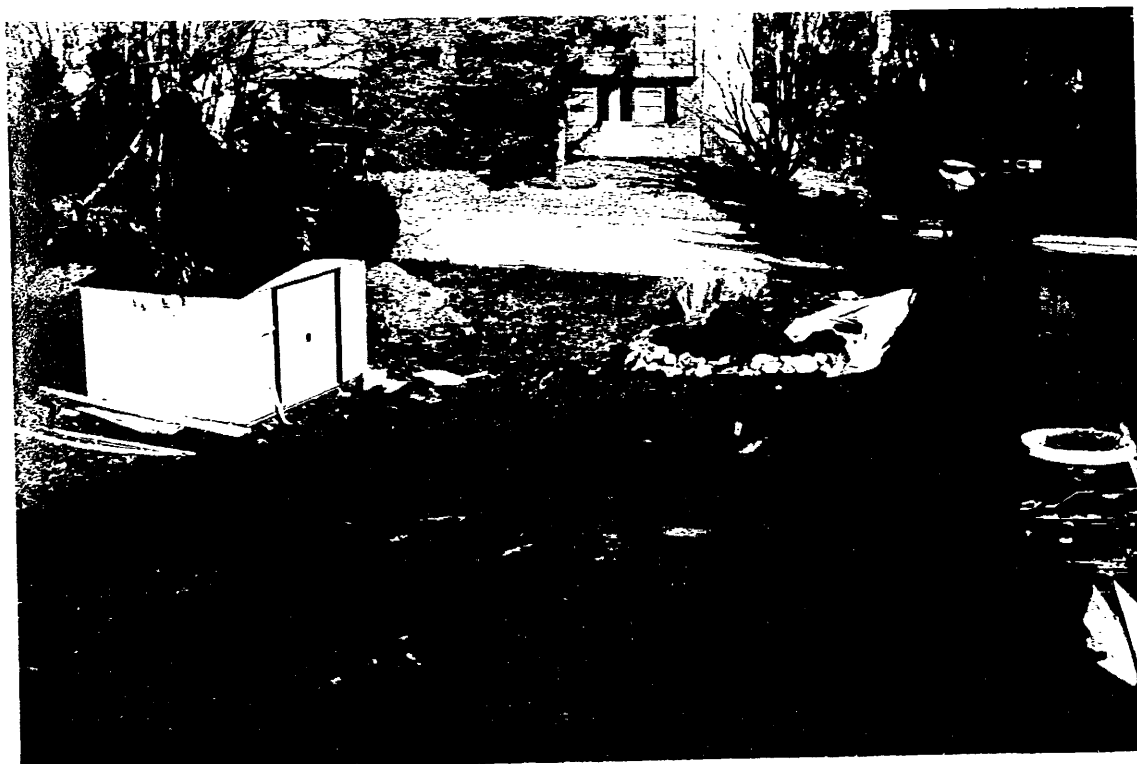
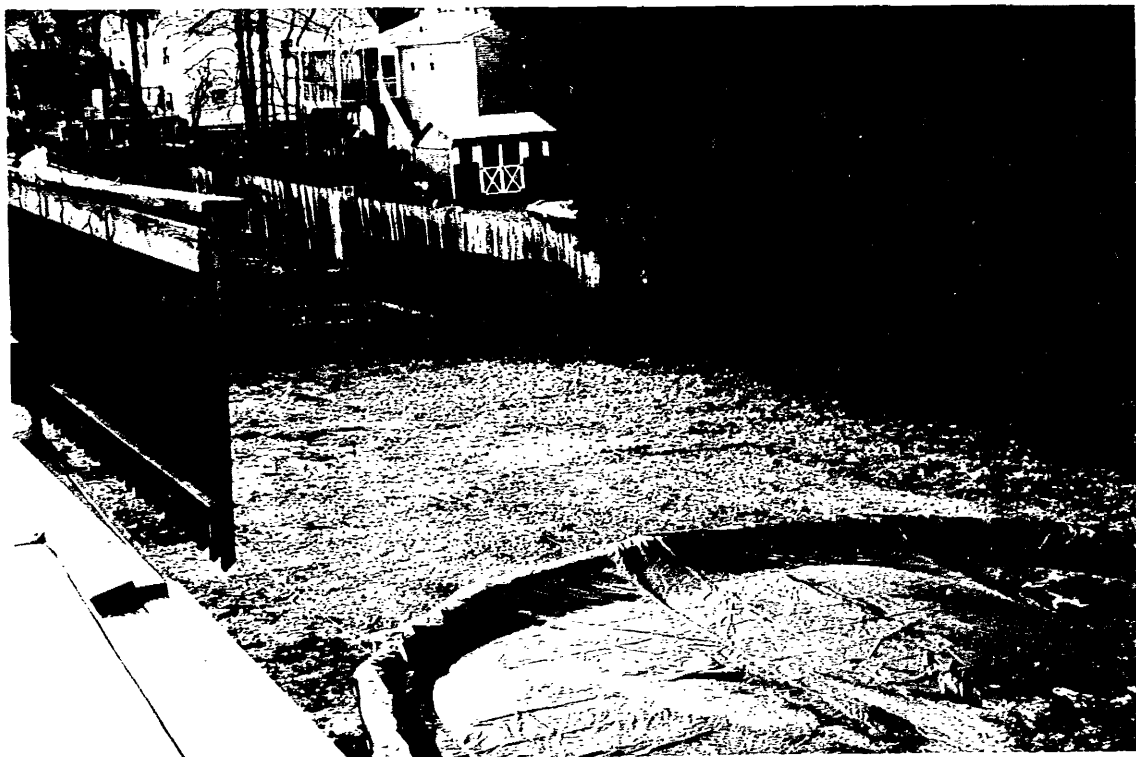
Refund: \$158.00

#99-54- Malaszuk, Peter

Area 73-3-8









Area 73-328

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Malaszk

FILE# 99-54

RESIDENTIAL: \$50.00
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA X

USE

APPLICATION FOR VARIANCE FEE \$ 50.00

*paid # 3866
12/30/99*

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 300.00

*paid # 3865
12/30/99*

DISBURSEMENTS:

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING-PER PAGE 12/13/99-3 \$ 13.50
2ND PRELIMINARY- PER PAGE 1/16/00-13 \$ 58.50
3RD PRELIMINARY- PER PAGE \$
PUBLIC HEARING - PER PAGE \$
PUBLIC HEARING (CONT'D) PER PAGE \$
TOTAL \$ 72.00

ATTORNEY'S FEES: \$35.00 PER MEEETING

PRELIM. MEETING: 12/13/99 \$ 35.00
2ND PRELIM. 1/16/00 \$ 35.00
3RD PRELIM. \$
PUBLIC HEARING. \$
PUBLIC HEARING (CONT'D) \$
TOTAL \$ 70.00

MISC. CHARGES:

..... \$
TOTAL \$ 142.00

LESS ESCROW DEPOSIT \$ 300.00
(ADDL. CHARGES DUE) \$
REFUND DUE TO APPLICANT. \$ 158.00

Date 1/31/00, 1900

TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553**

TO Pool & Spa Services DR.

246 Main St., Suite 2

Cornwall, N.Y. 12518-1516.

[illegible]

POOL & SPA SERVICES +
 (914) 534-8946
 246 MAIN ST., SUITE 2
 CORNWALL, NY 12518-1516

12-29 1999 3865
 50-893/219

Pay to the
 Order of Farm of New Windsor \$ 300.00
Three hundred and 00/100 Dollars

KEY BANK OF NEW YORK
 UNION AVENUE OFFICE 334
 1022 UNION AVENUE
 NEWBURGH, NY 12550

100-289 37 21 99-54

1999 NEW YORK STUDIO 0000 316-2041

POOL & SPA SERVICES +
 (914) 534-8946
 246 MAIN ST., SUITE 2
 CORNWALL, NY 12518-1516

12-29 1999 3866
 50-893/219

Pay to the
 Order of Farm of New Windsor \$ 50.00
Fifty and 00/100 Dollars

KEY BANK OF NEW YORK
 UNION AVENUE OFFICE 334
 1022 UNION AVENUE
 NEWBURGH, NY 12550

ASSATEAGUE LIGHTHOUSE

1999 NEW YORK STUDIO 0000 316-2041

In the Matter of the Application of

PETER MALAZUK

**MEMORANDUM OF
DECISION GRANTING
AREA VARIANCES**

#99-54.

WHEREAS, PETER MALAZUK, residing at 343 Nina Street, New Windsor, New York 12553, have made application before the Zoning Board of Appeals for a 2 ft. front yard, 1 ft. side yard and 12 ft. rear yard variances for construction of a deck attached to above residence in an R-4 zone; and

WHEREAS, a public hearing was held on the 10th day of January, 2000 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, John Sbraccia appeared on behalf of this Application; and

WHEREAS, there were two spectators appearing at the public hearing; and

WHEREAS, one spoke in opposition to the size of the proposed deck; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property consisting of a one-family home located in a neighborhood containing one-family homes.

(b) The proposed deck is designed to promote water drainage and to not create any ponding or collection of water.

(c) The proposed deck will not be constructed on top of any water or sewer easements.

(d) The proposed deck will not be constructed on top of any well or septic system.

(e) The proposed deck surrounds a pool which is similar to other pools in the neighborhood.

(f) A proposed deck is designed so that it will not be necessary to place an unsightly fence around the pool.

(g) The proposed deck is intended to secure the pool and promote the safety of those using it and of those in the neighborhood.

(h) The property is so situated so that legally two front yard set backs are required although the property visually appears to have only one front yard.

(i) The house is so situated that without the proposed deck it would be difficult to access the back of the house.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant which can produce the benefits sought.

3. The variances requested are substantial in relation to the Town regulations but nevertheless are warranted for the reasons listed above.

4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.

7. The requested variances are appropriate and are the minimum variances necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variances.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 2 ft. front yard, 1 ft. side yard and 12 ft. rear yard variances for construction of a deck at the above residence, in an R-4 zone as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: March 27, 2000.


Chairman

01/10/00

Public Hearing: Malasguk, Peter #99-54

objects to size
of deck

Name: Pat Mueatagh
Joe & Grimm

Address: 345 NINA ST
437 Ph, 10 ST

Date 1/24/00, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth DR.
168 N. Drury Lane
Newburgh N.Y. 12550
.....

DATE				CLAIMED	ALLOWED
10/00		Zoning Board Mtg		75 00	
		Misc. - 3			
		Locke - 5			
		Minutoli - 4			
		Sloop Hill - 25			
		Malaszk - 13	58.50		
		Maurice - 6			
		<u>56</u>		<u>252 00</u>	
				327 00	

MALASZUK, PETER

MR. NUGENT: Request for 2 ft. front yard, ¹/₂ ft. side yard and ~~1~~^{1 1/2} ft. rear yard for construction of deck attached to house at 343 Nina Street in R-4 zone. Is there anyone here for this?

MS. BARNHART: Sixty-four letters, addressed envelopes went out containing the public hearing notice for this matter on December 30.

Mr. John Sbraccia appeared before the board for this proposal.

MR. SBRACCIA: I got one back. John Sbraccia on behalf of the homeowner, Peter Malaszuk. We are requesting variances for several different reasons. Our front yard variance we're requesting was the steps coming down off the main deck off the house in order to put our landing onto the pool, we required additional two feet for the landing to be safe to go onto the pool deck, instead of going all the way down to the ground and back up onto the pool deck. The side yard variance was to maintain four foot into the walkway on the side of the pool for our deck to be able to walk around the pool area, keep it safe from anybody running there or jumping or going, for safety reasons. Our rear yard variance is, being a corner lot, we didn't have any real place to put the extra part of the entertainment area, that's why we are requesting the extra 18 feet with the rear yard and basically, whole idea of keeping the deck area and not brick it down to the ground, we want to keep a safety rail around the whole entertainment area to maintain safety, eliminating the amount of people being able to get into the pool area or people from the neighborhood getting into the pool area unsupervised.

MR. NUGENT: If I understand it, it's not drawn that way but--

MR. SBRACCIA: I have it drawn, it's not to scale of what we're doing.

MR. NUGENT: You're building a deck around the entire

pool. That's the reason for the 18 foot here?

MR. SBRACCIA: Right, that's this one and this is our two foot for the, to bring the landing down safely and keep everything on one level. We need the extra two feet on the front and sidewalk just for a walkway.

MR. NUGENT: You don't feel that by ending this deck at this point would be sufficient enough?

MR. SBRACCIA: I feel if we do that we're going to end up with an entertainment area on the ground and not going to be able to maintain a safety on the deck area and trying to keep people out and where you need them to be.

MR. NUGENT: Deck here is going to be the same elevation?

MR. SBRACCIA: No, maximum is three foot six off the ground or actually four foot off the grouped and over here is two foot six.

MR. NUGENT: Get from here to here, you have to go down the stairs?

MR. SBRACCIA: You have six and a half feet difference between the decks but we did, Mr. Malaszuk and I did discuss taking the stairways and eliminating our front yard variance and putting our landing and our stairs on this end, so we didn't have to do a variance for the front yard.

MR. NUGENT: We've got two front yards so tougher layout, no matter what.

MR. SBRACCIA: If I bring the stairs over here, I didn't need two feet on this end, I can still maintain my area, I didn't have to go for any additional variance.

MR. NUGENT: As you know, we like to keep the variances to a minimal as much as possible.

MR. BABCOCK: Mr. Chairman, do you have pictures of the

location?

MS. BARNHART: Got them all here.

MR. BABCOCK: If you notice the stairs and the landing where they come off, that's the end of house where the driveway entrance is, so it's just for practicalities that you'd want the entrance on that end of the, when I discussed with the contractor about the stairs, you know when you come home, if they want to come through the back entrance, they'd have to go up on the pool deck, walk the length of the pool deck, up the set of stairs, walk back the length, that's where the existing opening in the house is, it's quite a travel to get into the back of the house.

MR. TORLEY: Clearly that would make it less attractive for resale.

MR. BABCOCK: Yes, I don't think I'd want that myself. Do you see what I'm saying, Mike?

MR. REIS: Yes. You're not going to create any extra runoff to your neighbor's property?

MR. SBRACCIA: No, it's one of the other reasons we didn't want to disturb the ground, we didn't want to disturb the water flow. We felt that was sufficient for the area and we didn't want to come down and put a stone patio to continue our entertainment area then we're talking about that and possibility of another fence in the area and I know how I hate fences. I know I wouldn't want one in my neighborhood and I don't want to put one in somebody else's neighborhood. We could do it sufficiently by keeping the deck area and keeping everything in the deck area this way we're not disturbing the grounds.

MR. KRIEGER: Designed to promote water drainage and not creating ponding or collection of water.

MR. SBRACCIA: Right.

MR. KRIEGER: None of the construction will occur over the top of any water easements or sewer easements?

MR. SBRACCIA: No.

MR. KRIEGER: Well or septic system?

MR. SBRACCIA: No.

MR. KRIEGER: This is a one-family house in a neighborhood of one family homes, correct?

MR. SBRACCIA: Correct.

MR. KRIEGER: There are other similar pools in the neighborhood, pools and decks?

MR. SBRACCIA: Yes, not, I can't--

MR. KRIEGER: I'm just asking similar.

MR. SBRACCIA: There are similar and the biggest thing they all have major fences, I know when you go into a neighborhood, especially this neighborhood, I have seen a lot of fences that do seem quite abusive to the area, and I didn't want to put foot another one in this.

MR. KRIEGER: Variances are designed so that you can construct a structure that will not require that kind of fencing?

MR. SBRACCIA: Correct.

MR. NUGENT: I'm going to open it up at this time to the public. If you have any questions?

MR. JOE GRIMM: My name is Joe Grimm, I live at 437 Philo, this property you're talking about is the corner property, I'm the property I guess technically in the back yard as this thing is laid out, what concerns me is that the entertainment area is coming pretty close to my bedroom windows, the way my house is set up, my bedroom is on that end, then his property begins, I have no idea what the measurements are, how close that's going to come to my property line to my bedrooms.

MR. NUGENT: Twenty-two foot to your property line.

MR. TORLEY: Philo Street?

MR. GRIMM: Yes, this is Nina.

MR. NUGENT: If I understand it, it's going to be 22 feet from your line?

MR. BABCOCK: That's correct.

MR. TORLEY: Sir, the code, he does not need a variance for this?

MR. SBRACCIA: Yes, we do, that's the problem, that's our 22 feet we're going to this property line.

MR. BABCOCK: A common approach to this house to look at it what we're talking the rear yard only because it's a corner lot is basically a side yard between this gentleman's house, we have to call it a rear yard because of the corner lot. If it wasn't a corner lot, he wouldn't need a variance from there because he's only required to be 15 feet since it's called a rear lot because of the corner, he now needs to be 40 feet.

MR. NUGENT: Right 22 feet plus whatever your house is from your lot line.

MR. GRIMM: I don't know how much that might be.

MR. NUGENT: It's a minimum of 15.

MR. GRIMM: Maybe 30 feet from the line. The second question I had is there any standard so to speak for a deck around a pool, in other words, if you had a 6 foot pool could you have a 30 foot deck?

MR. NUGENT: No, there's no standard.

MR. TORLEY: As long as you, if this did not require, if it met all the setbacks, you can have a 200 foot deck and a four foot pool.

MR. GRIMM: I just want to make it clear, he's lived

there about 12 years, I have been there about the same length of time, I have never had a problem as far as noise and so on. But once this thing is established, let's say the house changes hands, now somebody else moves in, now I can have a noise problem for the rest of my life because this has been granted and that's, you know, the only comment that I wanted to make, just wanted to see if the deck was beyond normal for the size of pool and you know, how close it's going to come to the property line, as far as noise and whether it's going to be noise from Pete, I don't know, I haven't experienced that in 14 years. I may never experience it. But somewhere down the road, house changes hands, I could experience it. Thank you.

MR. PAT MURTAH (PHONETIC): Pat Murtah, I'm on 345 Nina Street, which is right behind Pete. I haven't seen the full dimensions of the entertainment area, it sounds pretty large. I just wanted to know how close it's going to come to my house, I think he said his is 22 feet.

MR. SBRACCIA: I'm only going two feet variance closer to your yard than what this would be.

MR. MURTAH: What would the actual be?

MR. SBRACCIA: Thirteen feet.

MR. MURTAH: I don't even know what the code is.

MR. NUGENT: Fifteen.

MR. MURTAH: I'm worried about the resale value of my house, I don't want to lose a potential buyer due to the fact that there's a deck butting up against my property.

MR. NUGENT: It's going to be two foot closer than it is now.

MR. TORLEY: That two feet is a stairway?

MR. SBRACCIA: No, that's the two feet on the side yard, I know it's confusing, but this is the two feet

he's talking about.

MR. MURTAH: Just looking at the entertainment area, to me, it seems more than sufficient, there's plenty of room that I think the two feet is unnecessary.

MR. SBRACCIA: The two feet was for a safer walkway around the pool.

MR. MURTAH: It's overkill, the whole deck is gigantic, I don't think it's necessary to go crossing that line, I mean, looking at the pool, I wish I had one like that. But you don't need a deck that big where you have to go over the lines, whatever the code, I don't know what they even call it. I think minus those two feet, he'd still have plenty of room for entertaining guests and the whole family.

MR. TORLEY: The applicant wishes to have the two feet to provide a walkway around the pool. If there was not two feet there, you'd have to walk around part of the pool and drop four feet to the ground.

MR. MURTAH: I've seen pools where only half the pool's been decked off. I don't think you need the whole pool as an entertainment area. Growing up as a kid, I only had a 4 foot deck on our above-ground pool, you know, and I don't think it's asking too much to cut the deck down a little bit, go halfway around the pool.

MR. NUGENT: Okay, anyone else? At this time, I'd like to close the public hearing and open it back up to the board members.

MR. TORLEY: Would you like to address those points?

MR. NUGENT: That was one of my concerns, since I have been looking at this thing, is we can cut that back side down a little bit instead of an 18 foot variance, make it a whatever.

MR. TORLEY: Which one are you talking about, Jim?

MR. SBRACCIA: He's talking about the back yard on this side.

MR. NUGENT: Twenty-two foot, the area where he has 22 foot and he needs 18 foot variance.

MR. TORLEY: If you met the side of the house, how far is that?

MR. SBRACCIA: I believe it's ten foot off the pool, 15 foot off the pool.

MR. TORLEY: How far from the pool would you be if you met?

MR. SBRACCIA: Thirty-two feet, it's 32 feet on the one end of the deck.

MR. TORLEY: No, no, the required side yard is?

MR. SBRACCIA: Forty foot.

MR. TORLEY: If you go to 40 foot, where does it put it on the house?

MR. SBRACCIA: Right on the side there.

MR. REIS: Do you think your client would have a problem decreasing it?

MR. SBRACCIA: He said that's the one area he said he'd like not to decrease.

MR. REIS: Well, to accommodate your client, accommodate your neighbors.

MR. SBRACCIA: Yeah, I know there's going to be a compromise and we're willing to do that, but he'd like not to there.

MR. TORLEY: You think this is to scale?

MR. SBRACCIA: This is, this one isn't.

MR. TORLEY: Should the board decide to grant a variance smaller than your request, is there some multiple of units that makes it convenient for you

operationally, the deck sizing?

MR. NUGENT: Lumber lengths?

MR. SBRACCIA: Lumber lengths, basically increments of 2's, that's--

MR. REIS: What exists now?

MR. SBRACCIA: This back area right across the back here.

MR. TORLEY: This deck which is how wide is the deck?

MR. SBRACCIA: Now deck is 26.

MR. TORLEY: Old deck?

MR. SBRACCIA: Ten feet.

MR. TORLEY: Ten by?

MR. SBRACCIA: Forty-six.

MR. TORLEY: So, you could be within the, if you restrict yourself to the appropriate setbacks, how big would the total deck area you have be?

MR. SBRACCIA: I didn't calculate that myself, it would be the dotted line.

MR. BABCOCK: It would be two foot narrower because of the side yard and it would be 18 foot shorter where it's 32 foot long.

MR. TORLEY: Deck area would still be larger than the footprint of the house.

MR. SBRACCIA: Only thing is when he does that because it's an entertainment area, he still wants to put an entertainment area down here, if you put patio stone in which he didn't want to do and put a fence around.

MR. BABCOCK: That was the other thing when we talked is that when I told him about the variances, they were

calculating what they could do and they talked about taking this area and making brick pavers on the lawn. Now, you either have more access to the pool and either put a fence around that which they'd be allowed to and now, they have more gates going into the pool that can be left open and so on and so forth, that's why they decided to go with the variance.

MR. TORLEY: This is an inground pool that's four foot high about?

MR. BABCOCK: No, above-ground pool.

MR. TORLEY: Above ground, so four foot high above-ground pool, does the code require a fence around it?

MR. BABCOCK: No, not unless it's less than a four foot out of the ground, it has to be 46 inches completely out of the ground.

MR. TORLEY: By code, it does not require a fence?

MR. BABCOCK: That's correct, but if he doesn't build the deck with the number 32 foot here that goes passed the house, and he puts a brick paver patio there, on the ground, that's going to have access to the pool then he's going to have to put a fence around that.

MR. SBRACCIA: Because the access areas is going to be too large for what you'd be doing.

MR. TORLEY: I'm a little confused, the deck height?

MR. BABCOCK: He's talking about having access area and the whole length having a wide stair that would go all the way up to an upper deck that would go into the pool, you'd have to have a gate that's 27 foot wide.

MR. TORLEY: Proposed deck is going to be the same height?

MR. BABCOCK: No, this deck is on the second floor, this deck is 4 foot off the ground. That's why it looks so massive because it's two different elevations.

MR. MCDONALD: If he put pavers in here, why would he have to have, we're not going to St. Peters, we're just going to a deck, why would it have to be 27 foot long?

MR. BABCOCK: Because he wants to make it the entertainment area.

MR. MCDONALD: He can make it four foot wide.

MR. BABCOCK: I'm not arguing, just telling you what he said to me, I'm not trying to promote the variance or not, I'm just telling you what the man said.

MR. TORLEY: If this whole area was granted, does this get him overdevelopmental coverage, this thing is, total plan footprint of the deck area is now, you know, twice as big as the house.

MR. BABCOCK: We did look at that at one point, Larry, and we didn't have any.

MR. TORLEY: As long as you looked at it.

MR. BABCOCK: Yeah, things have changed, we probably, you know, things have changed so much I've got to be honest with you, I don't know if it was this exact plan.

MS. BARNHART: If that's the case, he has to go for that, too.

MR. REIS: Can he accomplish this and reduce this approximately two foot on this side?

MR. SBRACCIA: If I can just maintain this one foot, I'd like to maintain a three foot walkway on this side, I'd like to do that.

MR. TORLEY: So one foot variance gives you a three foot variance?

MR. SBRACCIA: Yeah, that's normal standard sidewalk, that would be agreeable upon, like I said, I really don't mind losing the two foot frontage, but I didn't

want to lose back here, but I'm concerned about this back here.

MR. REIS: This is four foot here?

MR. SBRACCIA: That's four foot.

MR. REIS: If we diminish this a foot.

MR. SBRACCIA: I can't because the pool exists already.

MR. REIS: So, a foot off here, cut this down maybe, I don't know, six feet or so.

MR. SBRACCIA: I can cut it down six feet.

MR. BABCOCK: Keep in mind one other thing we discussed was is that if he pulls this deck, this pool deck away from the other decks by a few inches and exits down to the ground and then has his exit come back up, it becomes a detached deck and none of these variances are required, okay, he only has to be ten foot off a property line at that point, it's an accessory structure.

MR. TORLEY: But the deck's still four foot off the ground.

MR. BABCOCK: It's an accessory structure, so the only thing that complicates this thing is the idea that the, technical theory is that the stairs could go down and lead onto this deck, if he detaches those stairs from this deck, he doesn't even have to be here.

MR. REIS: Do you understand that technicality?

MR. MURTAH: Yeah, that's a pretty neat trick.

MR. BABCOCK: It's like the pool, it's a detached structure.

MR. MURTAH: Since it's connected to the house.

MR. BABCOCK: It's part of the setbacks for the house.

MR. SBRACCIA: The whole reason for being here we didn't want to have a problem with anybody.

MR. REIS: Accept a motion?

MR. NUGENT: Yes, I will.

MR. REIS: I make a motion that we give Peter Malaszuk his requested variances with adjustments to two foot front yard remains the same, change the two foot side yard to a one foot side yard and change the 18 foot rear yard to a 12 foot rear yard at 43 Nina Street.

MR. MCDONALD: Second it.

ROLL CALL

MR. REIS	AYE
MR. MCDONALD	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. BABCOCK: Mr. Reis, the 12 foot that you said he's requiring an 18 foot variance now, you want to say?

MR. REIS: Reducing it 6 feet to the 12 foot variance.

MR. NUGENT: Twelve foot variance, 18 is going to be a 12.

MR. BABCOCK: Excuse me, I thought we were going the opposite, you have to take 6 foot off.

MR. SBRACCIA: Right.

MR. BABCOCK: Okay.

Date 1/8/00, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth
168 N. Drury Lane..... DR.
Newburgh, N.Y. 12550

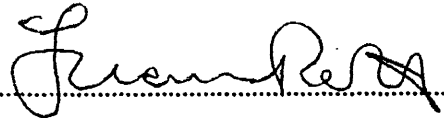
DATE			CLAIMED	ALLOWED
12/13/99	Zoning Board Mtg		75 00	
	Misc - 1			
	Furthas - 4 - 18.00.			
	Malazuk - 3 - 13.50.			
	DiBernardo - 6 - 27.00			
	Impellittiere - 6 - 27.00.			
	Accettura - 3 - 13.50.			
	<u>23</u>		<u>92 00</u>	
			167 00	
	<i>James Vincent</i>			

STATE OF NEW YORK,
TOWN OF NEW WINDSOR

} ss.

I hereby certify, that the items of this account are correct; that the disbursements and services charged therein have in fact been made and rendered, and that no part thereof has been paid or satisfied, that the amount herein mentioned is in full settlement for all services rendered and materials furnished.

Sign Here



No.

Town of New Windsor

Nature

Amount Claimed \$

Amount Allowed \$

Filed

I hereby certify that at a meeting of
said Town Board held at the office of the
Town Clerk on the day
of, 19.....

the within claim was audited and allowed
for the sum of

\$

Clerk

MALAZUK, PETER

MR. NUGENT: Request for 2 ft. front yard, 2 ft. side yard and 18 ft. rear yard variances to allow existing pool deck attached to residence at 343 Nina Street in an R-4 zone.

Mr. John Sbraccia appeared before the board for this proposal.

MR. NUGENT: You're on.

MR. SBRACCIA: I'm John Sbraccia, I'm the contractor on the deck. The request for the side yardage is to maintain a 4 foot walkway down by the side of the pool so we have a reasonable walkway next to the pool. We're trying for the rear yard variance so we have a reasonable entertainment area to keep the area enclosed to keep it safe from the kids, so we have one area, we don't have an area for kids getting in or outside visitors getting in and the front yard variance is trying to have a reasonable front entertainment area also.

MR. BABCOCK: This is a corner lot, Jim.

MR. NUGENT: Okay.

MR. TORLEY: Where are you going to put the, this is the deck as it exists now?

MR. SBRACCIA: Yeah, this is the deck, we're putting the deck from this area here over and back, it's kind of hard to put it on here the way it's set up and we're coming back this direction, coming out this way here and down the side there's a pool area right in here right now.

MR. TORLEY: You're going to be closer to Nina Street than the side of the house?

MR. SBRACCIA: Yes, but what Mr. Babcock told me my legal footage was 35 feet, we wanted to come out we're 33 feet.

MR. TORLEY: Mike, the deck is attached to the house, the deck can then be--

MR. BABCOCK: Well, the front yard setback is 35 feet, right now, his house is 45 feet from Nina Street, so he's allowed to go out since it's attached to the house, he's allowed to go out to the 35, the way that the steps come down off the existing deck, which is much higher is going to come down on to this deck, he's going to come down onto a platform and enter onto the pool deck or go right and go down on to the ground so he needs that extra two foot to get the stairs.

MR. TORLEY: Safety net.

MR. BABCOCK: Yeah, then he would have to go down on the ground and come back up on to the deck from the ground. This deck here, when he comes down off the deck, he'll be able to go onto the pool deck without going onto the ground. He needs this distance to put the deck and the stairs, if not, he's going to have to come down, go down, walk around and go up a set of stairs which really doesn't make any sense so he needs that extra two foot there for that.

MR. KANE: Could you provide a couple pictures so we can see where you're talking about?

MR. SBRACCIA: Sure.

MR. KANE: I move that we set up Mr. Malaszuk for a public hearing on his requested variances.

MR. MC DONALD: Second it.

ROLL CALL

MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. KRIEGER: When you come back, if you would address yourself to the criteria set forth on the sheet, since

December 13, 1999

8

those are the criteria on which the State requires the ZBA to decide.

MR. SBRACCIA: Thank you very much.

**OFFICE OF THE BUILDING INSPECTOR
TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK**

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

**APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT (914)563-4630 TO
MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.**

DATE: December 8, 1999

APPLICANT: Peter Malaszuk
343 Nina Street
New Windsor, New York 12553

FILE COPY

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: 12/7/99

FOR : Pool Deck attached to house

LOCATED AT: 343 Nina Street

ZONE: R-5

DESCRIPTION OF EXISTING SITE: 73-3-8

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. 48-12 Bulk tables R-⁴ zone, pool deck encroaches on require front yard by 2', rear yard by 18' and side yard by 2'.

Louis J. Kuchner
BUILDING INSPECTOR

PERMITTED

PROPOSED OR
AVAILABLE:

VARIANCE
REQUEST:

ZONE: R-⁴~~4~~ USE: Pool Deck

MIN. LOT AREA:

MIN LOT WIDTH:

REQ'D.. FRONT YD: 35' 33'

REQ'D. SIDE YD: 15' 13'

REQD. TOTAL SIDE YD:

REQ'D REAR YD: 40' 22'

REQ'D FRONTAGE:

MAX. BLDG. HT.:

FLOOR AREA RATIO:

MIN. LIVABLE AREA:

DEV. COVERAGE:

2' *panel*

1' 1'

18' 12'

cc: Z.B.A., APPLICANT, FILE ,W/ ATTACHED MAP

Approved.....
Disapproved n/c.....
Permit No.

Town Hall, 543 Main Street
New Windsor, New York 12550
Telephone 563-8807

Refer —
Planning Board.....
Highway.....
Sewer.....
Water.....
Zoning Board of Appeals.....

APPLICATION FOR BUILDING PERMIT

Pursuant to New York State Building Code and Town Ordinances

Date.....19.....

INSTRUCTIONS

- This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
- Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram which is part of this application.
- This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- The work covered by this application may not be commenced before the issuance of a Building Permit.
- Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions or alterations, or for removal or demolition or use of property, as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

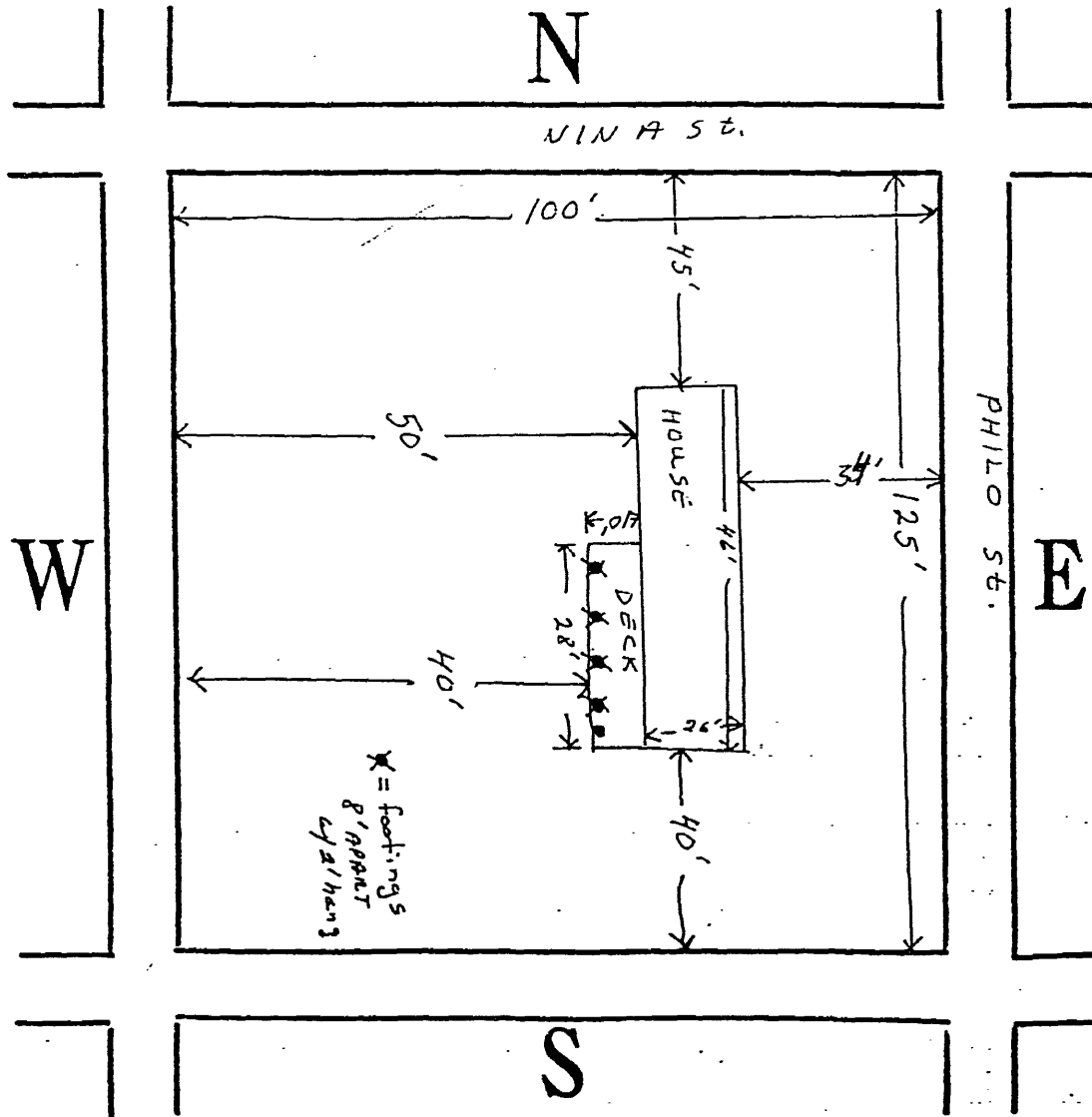
Peter Malaszk
.....
(Signature of Applicant)

343 NINA ST.
.....
(Address of Applicant)

PLOT PLAN

NOTE: Locate all buildings and indicate all set-back dimensions.

Applicant must indicate the building line or lines clearly and distinctly on the drawings.



11.5' GAP

21.5'

SY
2 FT
VAR

RY
18 FT
VAR

FY
2 FT
VAR

77-0

4-0

18x33

12-0

32-0

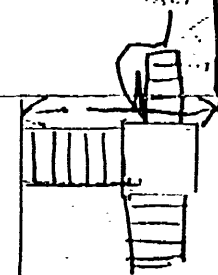
4-0

27-0

← 22' PROD. LINE →

Deck extension attached to main
old Deck via ramping

EXTENSION
OF OLD DECK
10x18



← 45 FT →

Peter MALASZUK
343- NINA ST
561-4143

**ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK**

In the Matter of the Application for Variance of

Peter Malaszk
Applicant.

#99-54.

**AFFIDAVIT OF
SERVICE BY
MAIL**

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, Windsor, N. Y. 12553.

That on 12/30/99, I compared the 64 addressed envelopes containing the Public Hearing Notice pertinent to this case with the certified list provided by the Assessor regarding the above application for a variance and I find that the addresses are identical to the list received. I then mailed the envelopes in a U.S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
___ day of ___, 19__.

Notary Public



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (914) 563-4631
Fax: (914) 563-4693

Assessors Office

December 15, 1999

Peter Malaszuk
343 Nina Street
New Windsor, NY 12553

Re: 73-3-8

Dear Mr. Malaszuk:

Please be advised that the attached list of properties are within five hundred (500) feet of the above referenced property.

The charge for this service is \$85.00, minus your deposit of \$25.00.

Please remit the balance of \$60.00 to the Town Clerks Office.

Sincerely,

Leslie Cook
Sole Assessor

LC/lrd
Attachments

CC: Pat Barnhart, ZBA

Francis and Geraldine Nicolosi
330 Nina Street
New Windsor, NY 12553

Alfred and Maureen Cestari
435 Philo Street
New Windsor, NY 12553

Thomas Trinajstic
454 Philo Street
New Windsor, NY 12553

Thomas and Joanne Farrell
328 Nina Street
New Windsor, NY 12553

Joseph and Elizabeth Como
433 Philo Street
New Windsor, NY 12553

Richard and Laura Graziano
456 Philo Street
New Windsor, NY 12553

Henry Cruz
357 Nina Street
New Windsor, NY 12553

Secretary of Veterans Affairs
C/o Fayer & Greenberger
175 Fulton Avenue
Hempstead, NY 11550

Donald and Diana McKeon
339 Nina Street
New Windsor, NY 12553

Myron and Phyllis Bernstein as Trustees of
The Myron Bernstein and The Phyllis
Bernstein Living Trusts
355 Nina Street
New Windsor, NY 12553

John and Mary Guarracino
429 Philo Street
New Windsor, NY 12553

Ursula Roberts
337 Nina Street
New Windsor, NY 12553

Darryl and Sarah Dreyer
353 Nina Street
New Windsor, NY 12553

Kenneth and Jeanne Martin
427 Philo Street
New Windsor, NY 12553

Robert and Xiomara D'Agostino
335 Nina Street
New Windsor, NY 12553

Michael and Sandra Muller
351 Nina Street
New Windsor, NY 12553

Bob and Rosemary Hersh
444 Philo Street
New Windsor, NY 12553

Joseph Hafner
Hyon Lemons
333 Nina Street
New Windsor, NY 12553

Richard and Marilene Baskind
349 Nina Street
New Windsor, NY 12553

Thomas and Kathleen Finneran
446 Philo Street
New Windsor, NY 12553

Richard Breakiron
Anneke-Jans Bogardus
331 Nina Street
New Windsor, NY 12553

Fred and Annette Kaiser
347 Nina Street
New Windsor, NY 12553

William Corcoran
448 Philo Street
New Windsor, NY 12553

William and Brandee Murphy Jr.
140 Shady Lane
Monterey, CA 93940

Patrick Murtagh
Lisa Izzo
345 Nina Street
New Windsor, NY 12553

LG Enterprises of New Jersey, Inc.
108 Lauren Lane
Lakehurst, NJ 08733

Gerald and Eve-Maria Wolfe
97 Keats Drive
New Windsor, NY 12553

Joseph and Patricia Grimm Jr.
437 Philo Street
New Windsor, NY 12553

Kevin and Leslie Hofving
452 Philo Street
New Windsor, NY 12553

Warren Schaefer
Marion Knox
95 Keats Drive
New Windsor, NY 12553

Otto Scheible
532 MacNary Lane
New Windsor, NY 12553

Charles and Anna Maria Vakirtzis
64 Steele Road
New Windsor, NY 12553

Howard and Elsa App
350 Nina Street
New Windsor, NY 12553

Laborer's Local 17 Training & Educational
Trust Fund
305B Little Britain Road
Newburgh, NY 12550

William and Allison Duffy
58 Steele Road
New Windsor, NY 12553

John and Kathryn McCrossen
348 Nina Street
New Windsor, NY 12553

Joseph and Myra Geraci
50 Steele Road
New Windsor, NY 12553

CVC Capital Management Money
Purchase Plan
PO Box 2307
Newburgh, NY 12550

Isidoro and Rosaria Macchiarella
346 Nina Street
New Windsor, NY 12553

Anton and Lucia Cech
81 Steele Road
New Windsor, NY 12553

Keith and Evelyn Aigner
364 Nina Street
New Windsor, NY 12553

Robert Lennon Jr.
Stacey Hauptman
344 Nina Street
New Windsor, NY 12553

William Shumskis
67 Steele Road
New Windsor, NY 12553

Jan and Angelina Rostek
362 Nina Street
New Windsor, NY 12553

Jeanne Stiller
342 Nina Street
New Windsor, NY 12553

Janet Dellaflora
71 Steele Road
New Windsor, NY 12553

Thomas and Margaret Organ
360 Nina Street
New Windsor, NY 12553

Gail Lehman
340 Nina Street
New Windsor, NY 12553

William and Joyce Monahan Jr.
75 Steele Road
New Windsor, NY 12553

Carol Probst
358 Nina Street
New Windsor, NY 12553

Mary and William Kostenblatt
338 Nina Street
New Windsor, NY 12553

David and Julianna Recine
Julia Bilello
79 Steele Road
New Windsor, NY 12553

Thomas and Kathleen Griffin Jr.
356 Nina Street
New Windsor, NY 12553

Brendan and Susan De Milt
336 Nina Street
New Windsor, NY 12553

Lois Musman
Richard Steele
C/o Lois Steele
PO Box 2181
Newburgh, NY 12550

Carmine and Frances Lepora
354 Nina Street
New Windsor, NY 12553

Marilyn Mutinelli
334 Nina Street
New Windsor, NY 12553

Dominic Gratale
Renee Adamus
72 Steele Road
New Windsor, NY 12553

Robert and Margaret Mullins
352 Nina Street
New Windsor, NY 12553

Elliot and Vicki Cohen
332 Nina Street
New Windsor, NY 12553

Victor and Rose D'Esposito
93 Keats Drive
New Windsor, NY 12553

Ben and Irena Eng
91 Keats Drive
New Windsor, NY 12553

David and Debra Ann Patterson Jr.
89 Keats Drive
New Windsor, NY 12553

Konstantinos and Margarita Ioannidis
87 Keats Drive
New Windsor, NY 12553

Town of New Windsor
555 Union Avenue
New Windsor, NY 12553
(814) 563-4611

RECEIPT
#99-53

12/30/1999

Services, Pool And Spa

Received \$ 50.00 for Zoning Board Fees, on 12/30/1999. Thank you for stopping by the Town Clerk's office.

As always, it is our pleasure to serve you.

**Dorothy H. Hansen
Town Clerk**

Pls. publish immediately. Send bill to Applicant at Below address.

PUBLIC NOTICE OF HEARING

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 53

Request of Peter Malaszuk

for a VARIANCE of the Zoning Local Law to Permit:

Construction of pool deck w/ insufficient front yd.,
side yard & rear yard;

being a VARIANCE of Section 48-12 - Table of Use/Bulk Regs. - Cols. E, F & G

for property situated as follows:

343 Nina Street, New Windsor, N.Y. 12553

known and designated as tax map Section 73, Blk. 3 Lot 8

PUBLIC HEARING will take place on the 10th day of January, 19²⁰⁰⁰ at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 o'clock P.M.

James Nugent.
Chairman

By: Patricia A. Barnhart, Secy.

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

99-53.54.

Date: 12-29-99

I. ✓ Applicant Information:

- (a) Peter Malasuk 343 NINA ST Y
(Name, address and phone of Applicant) (Owner)
- (b) _____
(Name, address and phone of purchaser or lessee)
- (c) _____
(Name, address and phone of attorney)
- (d) John R. Jbraccini P.O. Box 7134 NEWBURGH NY JRS CONSTRUCTION
(Name, address and phone of ~~contractor~~ engineer/architect)

II. Application type:

- ☐ Use Variance ☐ Sign Variance
- ☒ Area Variance ☐ Interpretation

III. ✓ Property Information:

- (a) R-4 343 N. NA ST 73-3-8
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? _____
- (c) Is a pending sale or lease subject to ZBA approval of this application? NO.
- (d) When was property purchased by present owner? _____.
- (e) Has property been subdivided previously? NO.
- (f) Has property been subject of variance previously? NO.
If so, when? _____.
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? NO.
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: 8x10 STEEL STORAGE SHED

IV. Use Variance. N/A

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow: _____
(Describe proposal) _____

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes _____ No X.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

✓ V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. E, F & G.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. <u>35'</u>	<u>33'</u>	<u>2'</u>
Reqd. Side Yd. <u>15'</u>	<u>14'</u>	<u>1'</u>
Reqd. Rear Yd. <u>40'</u>	<u>26'</u>	<u>14'</u>
Reqd. Street Frontage* <u>38'</u>	<u>38'</u>	<u>2'</u>
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

* Residential Districts only

** No-residential districts only

✓(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

From your variance is for be able to connect the steps from existing Deck to Pool Deck without going to ground level.
SIDE YARD TO Maintain 4' Walk Around Pool
Rear yard to Have All ENTERTAINMENT Contained on one level

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: N/A.

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Regs.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign	_____	_____	_____
Sign 3	_____	_____	_____
Sign	_____	_____	_____
	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation. N/A.

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

(b) Describe in detail the proposal before the Board:

✓ VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

(b) Variance: Granted (____) Denied (____)

(c) Restrictions or conditions: _____

_____.

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)